

THOMAS WILLIAMS

IBLA 81-302

Decided July 10, 1981

Appeal from decision of the Utah State Office, Bureau of Land Management, declaring Pool No. 68 placer mining claim null and void. U MC 63138.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Assessment Work -- Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim -- Mining Claims: Abandonment -- Mining Claims: Assessment Work

Where the owner of an unpatented mining claim located prior to Oct. 21, 1976, fails to file an affidavit of assessment work or notice of intention to hold the claim on or before Oct. 22, 1979, the claim is properly deemed abandoned and void.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Thomas M. Williams, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Thomas Williams appeals from the December 29, 1980, decision of the Utah State Office, Bureau of Land Management (BLM), declaring his Pool No. 68 placer mining claim abandoned and void for failure to file either evidence of assessment work performed during the preceding assessment year or a notice of intention to hold the claim on or before October 22, 1979. On March 12, 1979, appellant filed with BLM the notice of location, dated July 2, 1966, and a quitclaim deed for this claim. No copy of either proof of annual assessment work or a notice of intention to hold was ever filed with BLM.

[1] Section 314(a)(1) and (2) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a)(1) and (2) (1976), and the accompanying regulation, 43 CFR 3833.2-1(a), require that the owner of an unpatented mining claim located before October 21, 1976, as was this claim, shall, on or before October 22, 1979, or prior to December 31 of each year following the calendar year of recordation, file with BLM evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the mining claim. Failure to file the required documents is conclusively deemed to constitute an abandonment of the mining claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a).

When appellant failed to file either an affidavit of assessment work or a notice of intent to hold the claim on or before October 22, 1979, BLM properly held the claim to have been abandoned and declared it void. Stanley Bishop, 50 IBLA 371 (1980); Donald D. Vesely, 50 IBLA 277 (1980); John J. Schnabel, 50 IBLA 201 (1980). In Topaz Beryllium Co. v. United States, 479 F. Supp. 309 (D. Utah 1979), aff'd, No. 79-2255 (10th Cir. May 21, 1981), the Court sustained the recordation requirement and its implementing regulations against constitutional challenges. Of similar purport is the Ninth Circuit Court of Appeals decision in Western Mining Council v. Watt, 643 F.2d 618 (1981).

[2] Appellant does not deny that he failed to submit the required information but insists that he has consistently acted in good faith and that he did not know of the requirement to file such documents with BLM. He contends that he should have been notified of the changed requirements. All persons dealing with the Government, however, are presumed to have knowledge of duly promulgated statutes and regulations. Kenneth K. Parker, 48 IBLA 129 (1980). The Board of Land Appeals has no discretion to waive the effects of a failure to comply with the recordation requirements. Blackburn Enterprises, 41 IBLA 115 (1979).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Gail M. Frazier
Administrative Judge